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PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q64471

Sylvain CHAFER, et al.

Appln. No.: 09/855,502

Group Art Unit: 2674

Confirmation No.: 9436

Examiner: Abbas I. ABDULSELAM

Filed: May 16, 2001

For: METHOD OF MANAGING A GRAPHICAL USER INTERFACE

SUBMISSION OF APPEAL BRIEF

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Submitted herewith please find an Appeal Brief. A check for the statutory fee of \$340.00 is attached. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,

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Date: October 25, 2004

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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I. REAL PARTY IN INTEREST

The real party in interest is Alcatel, 54 rue la Boétie, 75008 Paris, France by virtue of an Assignment from Alain Penders executed on September 9, 1999 and recorded on October 18, 1999 in the U.S. Patent and Trademark Office at Reel 010317, Frame 0516.

II. RELATED APPEALS AND INTERFERENCES

There are no other applications, patents, appeals, interferences, prior and pending appeals or judicial proceedings known to Appellant, the Appellant's legal representative, or the Assignee that may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 2-5, 7-11 and 13-16 are all the claims presently pending in the application.

Claims 1, 6 and 12 were cancelled.

Claims 2-5, 7-11 and 13-16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Berry *et al.* (U.S. Patent No. 6,256,030) in view of Cirne *et al.* (U.S. Patent No. 6,633,313) and in further view of Ono *et al.* (U.S. Patent No. 5,794,040).

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IV. STATUS OF AMENDMENTS

No Amendments have been filed subsequent to the April 20, 2004 Final Office Action.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 2 – A method for managing keyboard events for a graphical user interface that is configured in the form of a tree of graphical elements. The tree comprises parent graphical elements and child graphical elements. *See, e.g.*, page 4, lines 27-24 and Figure 2a. Each graphical element (parent and/or child) of the tree is associated with a key list. *See, e.g.*, page 2, lines 28-35 and Figure 2b. Each key listed in a key list is associated with an action to be initiated on receipt of a keyboard event corresponding to the listed key and a particular graphical element. *See, e.g.*, page 2, lines 28-35 and Figure 2b. The method is initiated when a particular graphical element is active and a keyboard event is detected by an interface. *See, e.g.*, page 2, line 36 to page 3, line 1 and Figure 3. The keyboard event is compared to the keys listed in the key lists. The process starts with the key list associated with the active graphical element and traverses the tree of parent graphical elements and child graphical elements towards its root if the keyboard event was not found in the key list associated with the active graphical element. *See, e.g.*, page 3, lines 2-4; page 4, lines 7-13 and Figure 3. If a key is found in a key list that corresponds to the keyboard event, the action associated with that key is initiated. *See, e.g.*, page 3, lines 5-7; page 4, lines 14-15 and Figure 3.

Claim 7 – A method of managing keyboard events for a graphical user interface comprised of hierarchically related graphical elements. The hierarchically related graphical elements comprise both parent graphical elements and child graphical elements (of the parent graphical elements). *See, e.g.*, page 4, lines 27-24 and Figure 2a. Each graphical element (parent and/or child) of the tree is associated with a key list, and the key list can have a plurality of keys. *See, e.g.*, page 2, lines 28-35 and Figure 2b. At least one key listed in each of the key

lists is associated with an action to be initiated on receipt of a keyboard event corresponding to the listed key and a particular graphical element. *See, e.g.*, page 2, lines 28-35 and Figure 2b.

When a particular graphical element is active and a keyboard event is detected by an interface, a process is initiated. *See, e.g.*, page 2, line 36 to page 3, line 1 and Figure 3. The keyboard event is compared to the keys listed in the key lists. The comparison starts with the key list associated with the active graphical element and traversing the hierarchically related graphical elements towards the parent graphical elements if the keyboard event was not found in the key list associated with the currently active graphical element. *See, e.g.*, page 3, lines 2-4; page 4, lines 7-13 and Figure 3. If a key is found in a key list that corresponds to the keyboard event, the action associated with that key is initiated. *See, e.g.*, page 3, lines 5-7; page 4, lines 14-15 and Figure 3.

Claim 11 – A graphical user interface comprised of hierarchically related graphical elements. The hierarchically related graphical elements comprise both parent graphical elements and child graphical elements (of the parent graphical elements). *See, e.g.*, page 4, lines 27-24 and Figure 2a. Each graphical element (parent and/or child) of the graphical user interface is associated with a key list, and the key list can have a plurality of keys. *See, e.g.*, page 2, lines 28-35 and Figure 2b. At least one key listed in each of the key lists is associated with an action to be initiated on receipt of a keyboard event corresponding to the listed key and a particular graphical element. *See, e.g.*, page 2, lines 28-35 and Figure 2b. When a keyboard event is received when there is an active graphical element, a process is initiated. *See, e.g.*, page 2, line 36 to page 3, line 1 and Figure 3. The graphical user interface compares the keyboard event to the keys listed in the key lists, starting with the key list associated with the active graphical

element and traversing the hierarchically related graphical elements towards the parent graphical elements if the keyboard event was not found in a key list associated with the active graphical element. *See, e.g.*, page 3, lines 2-4; page 4, lines 7-13 and Figure 3. If a key is found in a key list that corresponds to the keyboard event, the graphical user interface initiates the action associated with the found key is initiated. *See, e.g.*, page 3, lines 5-7; page 4, lines 14-15 and Figure 3.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 2-5 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Berry *et al.* (U.S. Patent No. 6,256,030) in view of Cirne *et al.* (U.S. Patent No. 6,633,313) and in further view of Ono *et al.* (U.S. Patent No. 5,794,040).

B. Claims 7-10 and 15 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Berry *et al.* (U.S. Patent No. 6,256,030) in view of Cirne *et al.* (U.S. Patent No. 6,633,313) and in further view of Ono *et al.* (U.S. Patent No. 5,794,040).

C. Claims 11, 13 and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Berry *et al.* (U.S. Patent No. 6,256,030) in view of Cirne *et al.* (U.S. Patent No. 6,633,313) and in further view of Ono *et al.* (U.S. Patent No. 5,794,040).

VII. ARGUMENTS

A. Rejection of Claims 2-5 and 14 Under 35 U.S.C. § 103(a)

The burden of establishing that a claimed invention is *prima facie* obvious rests on the USPTO. *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). To make its *prima facie* case of obviousness, the USPTO must satisfy three requirements:

- a) The prior art relied upon, coupled with the knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the artisan to modify a reference or to combine references. *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).
- b) The proposed modification of the prior art must have had a reasonable expectation of success, as determined from the vantage point of the artisan at the time the invention was made. *Amgen, Inc. v. Chugai Pharm. Co.*, 927 F.2d 1200, 1208, 18 U.S.P.Q.2d 1016, 1022-23 (Fed. Cir. 1991).
- c) The prior art reference or combination of references must teach or suggest all the limitations of the claims. *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991); *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (CCPA 1970).

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, the nature of a problem to be solved. *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Alternatively, the motivation may be implicit from the prior art as a whole, rather than expressly stated. *Id.*

Regardless of whether the USPTO relies on an express or an implicit showing of motivation, the

USPTO is obligated to provide particular findings related to its conclusion, and those findings must be clear and particular. *Id.* A broad conclusionary statement, standing alone without support, is not “evidence.” *Id.*; *see also, In re Zurko*, 258 F.3d 1379, 1386, 59 U.S.P.Q.2d 1693, 1697-98 (Fed. Cir. 2001).

In addition, a rejection cannot be predicated on the mere identification of individual components of claimed limitations. *In re Kotzab*, 217 F.3d 1365, 1371, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000). Rather, particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *Id.* Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference. *In re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q.2d at 1316-1317 (*citing B.F. Goodrich Co. v. Aircraft Braking Sys. Corp.*, 72 F.3d 1577, 1582, 37 U.S.P.Q.2d 1314, 1318 (Fed. Cir. 1996)); *see also, Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (B. Pat. App. & Inter. 1985)) (“To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.”).

The Patent Office acknowledges that *Berry et al.* do not disclose comparing a keyboard event with keys through a hierarchical tree structure to find a key that corresponds to a keyboard event. The Patent Office claims that *Berry et al.* disclose that, in the case of a keyboard event, the next consecutive object will be determined according to the compound object’s hierarchy, but Figure 7A of *Berry et al.* is clear that if the keyboard event does not change the navigational

level, then the keyboard event is directed to a child object that can handle the keyboard event.

Keyboard events are not passed towards parent objects. The Patent Office alleges, however, that Cirne *et al.* provide the requisite disclosure to overcome the acknowledged deficiencies of Berry *et al.*

The combination of Berry *et al.* and Cirne *et al.* fails to teach or suggest comparing a keyboard event to the keys listed in key lists, starting with the key list associated with an active graphical element and traversing a hierarchical tree of parent graphical elements and child graphical elements towards the root of the tree if the keyboard event was not found in the key list associated with the active graphical element, as recited in claim 2. The combination of Berry *et al.* and Cirne *et al.* do not teach or suggest traversing the hierarchical tree if the keyboard event is not found in the key list associated with the active graphical element. As noted above, the Patent Office acknowledges that Berry *et al.* do not disclose comparing a keyboard event with keys through a hierarchical tree structure to find a key that corresponds to a keyboard event. As noted above, with respect to steps 263, 265, 267 and 269 as shown in Figure 7A of Berry *et al.*, if the keyboard event does not change the navigational level, then the keyboard event is directed to an object that can handle the keyboard event. Berry *et al.* disclose that the direction of the passing of the keyboard events is towards child objects, not parent objects. Steps 265 and 267 are repeatedly executed until a child object that can handle the keyboard event is located. Furthermore, Berry *et al.* disclose that only one level is active at a time, and there is no teaching or suggestion that the “active level” is an active graphical element. *See* col. 5, lines 2-5. Furthermore, in Berry *et al.*, each keyboard event has a universal meaning (*i.e.*, go to the right or change level) irrespective of whatever graphical element is active. Each keyboard event has only

one possible meaning and can only be associated to one action, and is thus independent of whatever graphical element is active. In other words, in *Berry et al.*, the action that results from a keyboard event is unchanging, and is not influenced on the basis of whether or not a particular graphical element is active. *Cirne et al.* disclose a focus event structure (800) that includes an event data key (802) and an event data field (804). *See* Figure 8, col. 7, lines 61-67 of *Cirne et al.* Specifically, *Cirne et al.* disclose an event handling mechanism that routes keyboard events to the right object in order to have the right action performed. The event handling mechanism takes charge of the routing of keyboard events, and there is no teaching or suggestion in *Cirne et al.* that the event handling mechanism is influenced in any manner by whether or not a particular graphical element is active. Furthermore, the global routing event mechanism of *Cirne et al.* is incompatible with the navigational mechanism of *Berry et al.*, since these are two different philosophies of handling keyboard events. Finally, *Cirne et al.*, like *Berry et al.*, handles events in a parent object to child object fashion; neither reference passes keyboard events in a child to parent fashion, as recited in claim 2.

The Patent Office has implicitly acknowledged that the combination of *Berry et al.* and *Cirne et al.* fail to teach or suggest a comparison that involves traversing a tree composed of parent graphical elements and child graphical elements towards its root is the keyboard event was not found in the key list associated with the active graphical element. However, the Patent Office alleges that *Ono et al.* supplies the necessary disclosure to overcome the implicit acknowledgment that the combination of *Berry et al.* and *Cirne et al.* fail to teach or suggest traversing the graphical element tree towards its root if the keyboard event was not found in the key list associated with the active graphical element.

The combination of Berry *et al.*, Cirne *et al.* and Ono *et al.* fails to teach or suggest comparing a keyboard event to the keys listed in key lists, starting with the key list associated with an active graphical element and traversing a hierarchical tree of parent graphical elements and child graphical elements towards the root of the tree if the keyboard event was not found in the key list associated with the active graphical element, as recited in claim 2. The Patent Office has impermissibly broadened the disclosure of Ono *et al.* to embrace the claimed subject matter. The bottom-up calculation is not related to the search through key lists from a child graphical element to a parent graphical element in order to find a match for a keyboard event, since no search back through a hierarchical tree is taught or suggested. Furthermore, although Figure 12 of Ono *et al.* might appear to disclose a search back through a hierarchical tree, Ono *et al.* disclose that pointers to an updated value are being exchanged. Critically, Figures 10a-10c of Ono *et al.* show various arrangements for the Event Source calculation, but none show a search path traversing a hierarchical tree towards its root. Moreover, Figure 9 shows Event Source paths from the root to the child operations, but does not show paths from the child operations back to the root. In sum, Applicant submits that the Patent Office cannot fairly point to any teaching or disclosure within Ono *et al.* of a search through key lists from a child graphical element to a parent graphical element in order to find a match for a keyboard event. Therefore, the combination of Berry *et al.*, Cirne *et al.* and Ono *et al.* fail to teach or suggest that a keyboard event is passed to higher level objects if no object that could handle the keyboard event is present in the current navigation level, or that the keyboard event is influenced by whether or not a particular graphical element is active. Thus, Applicants submit that the Patent Office cannot

fulfill the “all limitations” prong of a *prima facie* case of obviousness, as required by *In re Vaeck*.

Since neither *Berry et al.*, *Cirne et al.* nor *Ono et al.* disclose comparing a keyboard event to the keys listed in key lists, starting with the key list associated with an active graphical element and traversing a hierarchical tree of parent graphical elements and child graphical elements towards the root of the tree if the keyboard event was not found in the key list associated with the active graphical element, Applicants submit that one of ordinary skill in the art would not have combined the two references. Although the Patent Office provides a motivation analysis with respect to the comparison of keylists to keyboard events, *Berry et al.*, *Cirne et al.* and *Ono et al.* lack any teaching about the desirability of traversing the hierarchical tree if the keyboard event is not found in the key list associated with the active graphical element. As discussed above, *Berry et al.* and *Cirne et al.* disclose entirely incompatible methods for handling keyboard events, and *Ono et al.* lack any disclose of traversing hierarchical tress from child objects to parent objects. Given the complete lack of several elements of the invention recited in claim 2, one of skill in the art would not have been motivated to combine the three disparate references to create the present invention. There must be some showing of the obviousness of the claim as a whole, not the discrete parts to establish *prima facie* obviousness. When the art in question, as is the case here, is relatively simple, the opportunity to judge by hindsight is particularly tempting. Consequently, the tests of whether to combine references need to be applied rigorously. *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999), *limited on other grounds by In re Gartside*, 203 F.3d 1305, 53 U.S.P.Q.2d 1769 (2000). The same principle applies here because the Patent Office’s analysis is backward to

achieve the end point already defined, *i.e.*, independent claim 2. *Prima facie* obviousness is a legal requirement and the burden is on the Patent Office to demonstrate using only objective evidence or suggestion from the applied prior art, that one of ordinary skill would have been lead to the claimed invention as a whole without recourse to Applicants' disclosure. *In re Oetiker*, 977 F.2d 1443, 1447-48, 24 U.S.P.Q.2d 1443, 1446 (Fed. Cir. 1992); *In re Fine*, 837 F.2d 1071, 1074-75, 5 U.S.P.Q.2d 1596, 1598-99 (Fed. Cir. 1988). As a matter of law then, it is the burden of the Patent Office to demonstrate that the prior art, and not Applicants' disclosure, would lead the hypothetical artisan to the claimed invention as a whole. What the Patent Office has done, and as plainly apparent in the statement of rejection, is to dissect the claim into discrete components and then to apply individual pieces of prior art. That is the hallmark of hindsight and not the characteristic of obviousness. Thus, Applicants submit that the Patent Office cannot fulfill the motivation prong of a *prima facie* case of obviousness, as required by *In re Dembiczak* and *In re Zurko*.

Based on the foregoing reasons, Applicants submit that the combination of *Berry et al.*, *Cirne et al.* and *Ono et al.* fails to disclose all of the claimed elements as arranged in claim 2. Therefore, the combination of *Berry et al.*, *Cirne et al.* and *Ono et al.* clearly cannot render the present invention obvious as recited in claim 2. Thus, Applicants submit that claim 2 is allowable, and further submit that claims 3-5 and 14 are allowable as well, at least by virtue of their dependency from claim 2. Applicants respectfully request that the Patent Office withdraw the § 103(a) rejection of claims 2-5 and 14.

B. Rejection of Claims 7-10 and 15 Under 35 U.S.C. § 103(a)

Independent claim 7 has similar recitations as independent claim 2. Applicants submit that claim 7 is allowable over the combination of Berry *et al.*, Cirne *et al.* and Ono *et al.* for the similar reasons as claim 2, namely the lack of disclosure with respect to the comparison of key lists upon receipt of a keyboard event and traversing the hierarchically related graphical elements toward the parent graphical elements to find a key within the key lists that corresponds to the keyboard event. For the sake of brevity, Applicants incorporate by reference the claim 2 arguments concerning the “all limitations” and motivation prongs of a *prima facie* case of obviousness as applying to claim 7 as well. Applicants further submit that claims 8-10 and 15 are allowable as well, at least by virtue of their dependency from claim 7. Applicants respectfully request that the Patent Office withdraw the § 103(a) rejection of claims 7-10 and 15.

C. Rejection of Claims 11, 13 and 16 Under 35 U.S.C. § 103(a)

Claim 11 has similar recitations as claim 2. Applicants submit that claim 11 is allowable over the combination of Berry *et al.*, Cirne *et al.* and Ono *et al.* for similar reasons as claim 2, namely the lack of disclosure with respect to the comparison of key lists upon receipt of a keyboard event and traversing the hierarchically related graphical elements toward the parent graphical elements to find a key within the key lists that corresponds to the keyboard event. For the sake of brevity, Applicants incorporate by reference the claim 2 arguments concerning the “all limitations” and motivation prongs of a *prima facie* case of obviousness as applying to claim 11 as well. Applicants further submit that claims 13 and 16 are allowable as well, at least by

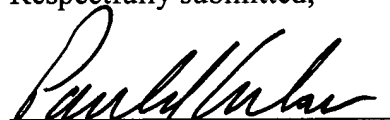
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virtue of their dependency from claim 11. Applicants respectfully request that the Patent Office withdraw the § 103(a) rejection of claims 11, 13 and 16.

Unless a check is submitted herewith for the fee required under 37 C.F.R. §41.37 and 1.17(c), please charge said fee to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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CLAIMS APPENDIX

CLAIMS 2-5, 7-11 and 13-16 ON APPEAL:

1. (*Cancelled*).

2. A method of managing keyboard events for a graphical user interface configured in the form of a tree of graphical elements, said tree comprising parent graphical elements and child graphical elements, wherein each graphical element of the tree is associated with a key list and each key listed in said key lists is associated with an action to be initiated on receipt of a keyboard event corresponding to said key and said graphical element, wherein when one graphical element is active and a keyboard event is detected by an interface, the method comprises:

comparing said keyboard event to the keys listed in said key lists, starting with the key list associated with the active graphical element and traversing said tree of parent graphical elements and child graphical elements towards its root if said keyboard event was not found in said key list associated with the active graphical element, and

initiating the action associated with the first key found that corresponds corresponding to said keyboard event.

3. A portable system having a graphical interface comprising a keyboard, a screen and an interface management unit, wherein the management unit employs a method of managing keyboard events according to claim 2.

4. The system according to claim 3, wherein the system is a mobile telephone.

5. The system according to claim 3, wherein the system is a pocket organizer.

6. (*Cancelled*).

7. A method of managing keyboard events for a graphical user interface comprised of hierarchically related graphical elements, said hierarchically related graphical elements comprising parent graphical elements and child graphical elements, the method comprises:

associating each graphical element with a key list, wherein each key list stores a plurality of keys;

associating at least one key listed in each of said key lists with an action; and

when one graphical element is active and a keyboard event is detected by an interface, the method further comprises:

comparing said keyboard event to the keys listed in said key lists, starting with the key list associated with the active graphical element and traversing said hierarchically related graphical elements towards said parent graphical elements if said keyboard event was not found in said key list associated with the active graphical element, and

initiating the action associated with the first key found that corresponds to said keyboard event.

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8. A portable system having a graphical interface comprising a keyboard, a screen and an interface management unit, wherein the management unit employs a method of managing keyboard events according to claim 7.

9. The system according to claim 8, wherein the system is a mobile telephone.

10. The system according to claim 8, wherein the system is a pocket organizer.

11. A graphical user interface comprised of hierarchically related graphical elements, said hierarchically related graphical elements comprising parent graphical elements and child graphical elements, the graphical user interface comprising:

a key list associated with each graphical element, wherein each key list stores a plurality of keys;

a plurality of actions, with each action being associated with at least one key listed in each of said key lists, such that when a keyboard event is received when there is an active graphical element, the graphical user interface compares said keyboard event to the keys listed in said key lists, starting with the key list associated with the active graphical element and traversing said hierarchically related graphical elements towards said parent graphical elements if said keyboard event was not found in said key list associated with the active graphical element, and initiates the action corresponding to the first key found that corresponds to the said keyboard event.

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12. (*Cancelled*).

13. The graphical user interface as claimed in claim 11, wherein, after receipt of a keyboard event, if the active graphical element is a child graphical element, the key list of the child graphical element is searched before the key list of its parent graphical element is searched.

14. The method according to claim 2, wherein an error message is generated if said keyboard event is not matched to one of the keys listed in said key lists.

15. The method according to claim 7, wherein an error message is generated if said keyboard event is not matched to one of the keys listed in said key lists.

16. The graphical user interface according to claim 13, wherein an error message is generated if said keyboard event is not matched to one of the keys listed in said key lists.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.